

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, and
JOHN MEINERS, Individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

NATIONAL ASSOCIATION OF
REALTORS, COMPASS, INC., EXP
WORLD HOLDINGS, INC., REDFIN
CORPORATION, WEICHERT
REALTORS, UNITED REAL ESTATE, and
DOUGLAS ELLIMAN, INC.

Defendants.

Case No. 4:23-cv-00788-SRB

Hon. Stephen R. Bough

DANIEL UMPA, on behalf of himself and
all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, HOMESERVICES OF
AMERICA, INC., BHH AFFILIATES, LLC,
HSF AFFILIATES, LLC, THE LONG &
FOSTER COMPANIES, INC., KELLER
WILLIAMS REALTY, INC., COMPASS,
INC., EXP WORLD HOLDINGS, INC.,
EXP REALTY, LLC, REDFIN
CORPORATION, WEICHERT
REALTORS, UNITED REAL ESTATE,
HANNA HOLDINGS, INC, DOUGLAS
ELLIMAN, INC., DOUGLAS ELLIMAN
REALTY, LLC, AT WORLD
PROPERTIES, LLC, THE REAL
BROKERAGE INC., REAL BROKER,

Case No. 4:23-cv-00945-SRB

Hon. Stephen R. Bough

LLC, REALTY ONE GROUP, INC.,)
HOMESMART INTERNATIONAL, LLC.,)
)
)
Defendants.)
)

**JOINT MOTION BY PLAINTIFFS AND ALL DEFENDANTS OTHER THAN THE
HOMESERVICES DEFENDANTS FOR A COORDINATED SCHEDULING ORDER**

Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa (collectively “Plaintiffs”) and Defendants National Association of REALTORS®, Compass, Inc., eXp World Holdings, Inc., eXp Realty, LLC, Redfin Corporation, Weichert Realtors, Hanna Holdings, Inc., Douglas Elliman Inc., Douglas Elliman Realty, LLC, At World Properties, LLC, The Real Brokerage Inc., Real Broker, LLC, Realty One Group, Inc., Homesmart International, LLC, United Real Estate, and Keller Williams Realty, Inc. (collectively, “Defendants”)¹ (Plaintiffs and Defendants together, “the Parties”) respectfully request, subject to and without waiver of Defendants’ right to challenge this Court’s jurisdiction, Defendants’ right to enforce arbitration clauses, or any other grounds that Defendants may have to challenge Plaintiffs’ Class Action Complaints (“Complaints”), that this Court enter an Order setting a coordinated case schedule for both of the above-captioned cases. In support of this Motion, the Parties state as follows:

1. Plaintiffs Don Gibson, Lauren Criss, and John Meiners filed their Complaint on October 31, 2023 in a case captioned *Gibson et al. v. National Association of Realtors, et al.*, Case No. 4:23-cv-00788-SRB.

¹ The HomeServices Defendants, which are HomeServices of America, Inc, BHH Affiliates, LLC, HSF Affiliates, LLC, and The Long and Foster Companies, Inc., declined to participate in this Motion. All other Defendants in *Gibson* and *Umpa*, however, join in this motion.

2. On November 27, 2023, the Court issued an order extending Defendants' time to respond to the *Gibson* Complaint to January 18, 2024. (*Gibson*, Dkt. No. 18.)

3. On December 27, 2023, Plaintiff Daniel Umpa filed a separate complaint in this District against Defendants and others in a case captioned *Umpa v. National Association of Realtors, et al.*, Case No. 4:23-cv-00945-SRB.

4. On December 27, 2023, Plaintiffs filed a Motion for Transfer of Actions to the Western District of Missouri Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings with the United States Judicial Panel on Multidistrict Litigation ("JPML"). *In re Real Estate Commission Litigation*, Case MDL No. 3100 (JPML Dec. 27, 2023) (Dkt. No. 1).

5. The Parties agree that the allegations in *Gibson* and *Umpa* are substantially similar.

6. On January 17, 2024, the Court issued an order extending Defendants' time to respond to the *Gibson* Complaint to January 25, 2024. (*Gibson*, Dkt. No. 77).

7. The Parties agree that in light of the similarities of the allegations in *Gibson* and *Umpa*, it would be in the interests of judicial economy and a more efficient use of the Parties' resources to coordinate the case schedules for *Gibson* and *Umpa*.

8. The Parties have negotiated and agreed to a coordinated case schedule for both cases as follows:

- a. Defendants' Responsive Pleadings, Motions to Dismiss the Complaints (including, but not limited to, for lack of personal jurisdiction), and/or other motions to challenge the Complaints on other grounds (including,

but not limited to, a motion to assert arbitration rights) for both *Gibson* and *Umpa* are due February 26, 2024.

- b. Plaintiffs' Oppositions to any Motions filed by Defendants are due March 25, 2024.
- c. Defendants' Replies to any Oppositions filed by Plaintiffs are due April 22, 2024.

9. The Parties also have negotiated and agree as follows:

- a. The Parties will hold a joint conference in accordance with Fed. R. Civ. P. 26 in both *Gibson* and *Umpa* during the week of February 12, 2024. By holding the conference, the Parties agree that Defendants are not waiving their rights to argue that this Court does not have jurisdiction over the cases, their rights to argue that this Court is not an appropriate venue, their rights to enforce arbitration agreements, or their rights to argue any other grounds that Defendants may have to challenge Plaintiffs' Complaints.
- b. The Parties agree that they can serve discovery requests after the Fed. R. Civ. P. 26 conference, but no responses to those requests will be due until thirty (30) days after the JPML rules on Plaintiffs' Motion for Transfer.
- c. The Parties will exchange initial disclosures in accordance with Fed. R. Civ. P. 26 fourteen (14) days after the JPML rules on Plaintiffs' Motion for Transfer.

10. Plaintiffs request that the Court set the HomeServices Defendants on the same schedule. The other Defendants take no position on this request.

WHEREFORE the Parties request that this Court enter an Order granting Defendants up to and including February 26, 2024, to file responsive pleadings and/or motions to dismiss Plaintiffs' Class Action Complaints; Plaintiffs up to and including March 25, 2024, to file their Oppositions; and Defendants up to and including April 22, 2024, to file their Replies. The Parties also request that the Court enter an Order stating that the Parties will hold a Fed. R. Civ. P. 26 conference during the week of February 12, 2024; that the Parties may serve discovery requests after that conference but responses to those discovery requests will not be due until thirty (30) days after the JPML rules on Plaintiffs' Motion to Transfer; and that the Parties will exchange initial disclosures in accordance with Fed. R. Civ. P. 26 fourteen (14) days after the JPML rules on Plaintiffs' Motion to Transfer.

Dated: January 24, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2024, a copy of the foregoing document was electronically filed through the ECF system and will be sent electronically to all persons identified on the Notice of Electronic Filing.

/s/ Daniel A. Sasse

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